

Exhibit 4

Defendants' Deposition Designations
with Plaintiff's Objections and Counter-Designations

Civil Action No. 1:18-cv-02949-ARR-JAM

Mirkin, et al. v. XOOM Energy, LLC, et al.

**XOOM's Deposition Designations
with Plaintiff's Objections and Counterdesignations and
XOOM's Objections to Plaintiff's Counterdesignations**

XOOM intends to call Andrew Coppola, Ryan Park, Tom Ulry, and Jason Loehde to testify live at trial, and each has indicated a willingness to attend if available. However, as Plaintiff knows, each is a former employee and none lives within the Court's subpoena jurisdiction, so XOOM cannot guarantee their attendance or compel any of these witnesses to testify at trial. Further, the lack of a trial date makes ensuring the attendance of any of these witnesses even more challenging. XOOM therefore designates the following deposition testimony for use at trial in the event that any of these witnesses is unable to testify either at trial, in person or by videoconference, or via trial deposition. XOOM expects that its remaining witnesses will be able to testify live at trial. However, XOOM reserves the right to revise or supplement these designations if the availability of any other trial witness changes.

Finally, the deposition designations below are made consistent with, subject to, and without waiver of, any rights or defenses asserted in XOOM's motions in limine. XOOM reserves the right to revise or supplement the deposition designations based on the Court's rulings on the parties' motions in limine and any other pre-trial motion practice, as well as any trial stipulations the parties enter into.

XOOM reserves the right to amend and update these designations as appropriate.

Andrew Coppola, 5/11/2022

XOOM Designation	Plaintiff's Objections to Designation	Plaintiff's Counter-Designations	XOOM's Objections to Counter
12:17-13:7	None		
23:13-26:12	402 (relevance – unrelated to XOOM); 403 (undue delay, wasting time)		
30:22-32:1	None		
32:21-34:15	None		
36:1-37:10	None		
39:21-40:19	39:21–40:3: None		

	40:4–40:19: 402 (relevance); 403 (undue delay, wasting time)		
41:1-4	402 (relevance – unrelated to rate setting); 403 (undue delay, wasting time); 602 (speculation)		
41:22-43:25	402 (relevance – unrelated to XOOM); 403 (undue delay, wasting time)		
49:2-53:6	None		
53:21-22	None		
55:19-24	403 (cumulative of prior designations)		
56:7-17	403 (cumulative of prior designations)		
57:1-58:25	403 (cumulative of prior designations)		
65:4-66:7	None		
69:19-71:11	None		
74:21-77:8	75:20–76:9: 402 (relevance – unrelated to rate setting); 403 (undue delay, wasting time) None for remainder.		
81:18-84:11	None		
84:23-91:10	84:23–85:7: None 85:8–86:18: 402 (relevance – unrelated to NY rate setting); 403 (undue delay, wasting time); 602 (speculation) 88:15–91:10		
169:4-173:11	None		
175:25-177:25	None		
198:9-200:15	403 (wasting time, undue delay; misleading the jury); 602 (speculation); NR		
203:19-204:16	402 (relevance – company preferences not at issue)	204:17–205:24	Foundation , questions misstate the testimony; Rule 401, Relevance – volume of fixed-rate business and comparison between fixed-rate and variable-rate products has

			no bearing on rate-setting or contract at issue; Rule 403, Probative Value – prejudicial, misleading
217:13-218:3	None		
220:23-222:18	Incomplete; 403 (misleading the jury)	222:19–223:4	222:19–223:4 – Foundation; Question Assumes Facts Not in Evidence
226:6-229:7	None		
247:4-249:11	None		
249:24– 251:15	Incomplete; 403 (misleading the jury)	249:12–23	
252:9-254:22	None		
261:10-264:19	None		
275:17-276:3	402 (relevance); 403 (undue delay, wasting time)		
278:2-281:13	AS; 611c		
282:22-285:25	AS; 611c		
286:12-20	AS; 611c		

Ryan Park, 7/22/2022

XOOM Designation	Objections to Designation	Plaintiff's Counter-Designations	XOOM's Objections to Counter
4:8-10	None		
8:2-19	None		
23:3-26:2	402 (relevance – unrelated to XOOM); 403 (wasting time, undue delay)		
29:10-37:3	None		
39:13-41:17	None		
43:21-48:3	None		

57:2-15	402 (relevance – unrelated to XOOM); 403 (wasting time, undue delay)		
78:11-84:23	None		
98:6-110:14	None		
150:3-153:3	None	153:4–9	153:10–14
173:7-23	None		
180:21-181:8	None		
196:13-200:7	None		

Thomas Ulry, 5/12/2022

XOOM Designation	Objections to Designation	Plaintiff's Counter-Designations	XOOM's Objections to Counter
10:11-11:2	None		
13:23-14:4	None		
14:23-15:23	None		
16:14-17:3	402 (relevance – unrelated to XOOM)		
17:4-18:8	402 (relevance – unrelated to XOOM)		
22:25-24:6	None		
26:18-23	None		
27:18-21	None		
29:8-32:4	None		
33:7-13	None		
35:7-37:2	35:7–19: None 35:20–37:2: 402 (relevance – unrelated to rate setting); 403 (wasting time, undue delay)		
62:22-64:4	Improper designation If 62:22–64:3: None		
67:21-69:3	None		
75:17-77:20	None		
78:11-81:10	None		

106:6-107:2	402 (relevance – unrelated to rate setting); 403 (cumulative, wasting time, undue delay)		
119:13-15	402 (relevance); 403 (undue delay, wasting time)		
120:19-21	402 (relevance); 403 (undue delay, wasting time)		
131:20-23	402 (relevance); 403 (undue delay, wasting time)		

Jason Loehde (Individually), 7/27/2022

XOOM Designation	Objections to Designation	Plaintiff's Counter-Designations	XOOM's Objections to Counter
16:15-18:2	None		
30:21-31:21	403 (undue delay, wasting time)		
32:9-11	403 (undue delay, wasting time)		
33:2-12	403 (undue delay, wasting time)		
34:12-37:5	403 (undue delay, wasting time)		
37:24-38:23	37:24–38:6: 403 (undue delay, wasting time) 38:7–38:23: None		
39:19-41:23	None		
44:19-45:13	None		
45:21-49:25	None		
50:14-58:12	None		
59:11-60:2	None		
60:14-61:19	None		
62:4-65:2	None		
65:24-72:6	None		
75:9-23	None		
77:11-78:15	None		
79:2-12	Incomplete; 403 (misleading the jury)	79:14–80:2	
82:10-87:14	403 (cumulative, misleading the jury); NR		
88:18-89:1	None		
91:5-11	None		

127:20-128:20	402 (relevance – unrelated to rate setting under the contract); 403 (undue delay, wasting time)		
134:21-135:10	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
136:9-137:4	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
143:1-144:2	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
147:10-148:5	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
154:25-156:22	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
158:13-159:19	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
160:7-162:3	Improper designation; 403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
163:20-22	Incomplete; 403 (misleading the jury)	162:4–163:19 163:23–165:7	Rule 602, Personal Knowledge; Rule 701, Speculation
164:18-165:7	None		
181:3-188:14	None		
238:8-241:12	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
250:13-251:22	None		

Jason Loehde (30(b)(6)), 7/28/2022

XOOM Designation	Objections to Designation	Plaintiff's Counter-Designations	XOOM's Objections to Counter
10:9-21	None		
20:5-21	Improper designation		

	20:5–20: None		
26:10-28:15	None		
28:25-29:8	402 (relevance); 403 (undue delay, wasting time)		
30:17-31:8	402 (relevance); 403 (undue delay, wasting time)		
32:8-39:25	None		
45:6-52:4	None		
53:7-24	Incomplete; 403 (misleading the jury)	53:25–54:9	Rule 401 , Relevance – Plaintiff has not suggested that rate-setting worksheets did not accurately capture estimated costs (indeed Plaintiff relies on the RSWs), so no relevance; Rule 403 , Probative Value – prejudicial, misleading; Rule 602 , Personal Knowledge; Rule 701 , Speculation;
54:25-55:9	None		
56:6-57:23	None		
62:3-64:12	None		
64:23-73:24	None		
75:3-80:14	None		
81:13-85:16	None		
93:18-95:22	403 (undue delay, wasting time)		
104:21-105:16	403 (undue delay, wasting time); 602 (speculation)		
108:22-111:20	None		
115:2-116:15	None		
118:10-121:25	403 (undue delay, wasting time)		
122:25-123:10	None		
183:13-189:2	None		

189:17-192:7	None		
193:24-195:5	None		
202:17-206:25	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
207:17-219:6	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
221:14-225:18	None		
226:14-20	None		
227:22-228:12	None		
270:2-11	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
272:15-273:22	403 (cumulative, undue delay, wasting time); underlying exhibit subject to MIL		
284:3-22	None		
287:6-290:12	AS; 611c		

Objections Key:

Objection	Description
AS	Attorney statement; no question asked
NR	Non-responsive
402	Relevance
403	Asked and answered, unduly prejudicial, confusing, misleading, waste time, cumulative
611c	Leading